IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21588 of 2004

Between:

V.S.P. Rao, E-68453, Driver, S/o. Seshagiri Rao,
Ongole Depot, R/o. Bandar Road, Ongole, Prakasam District.

..... PETITIONER

AND

1 The Regional Manager, A.P.S.R.T.C. Ongole Region,

Ongole, Prakasam District.
2 The Depot Manager, A.P.S.R.T.C. Ongole Depot, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of MANDAMUS declaring the action of the respondents herein ordering recovery of the stagnation increment paid vice proc. No. P1/30(2)/2004-Ongole, Dt. 9-10-2004, as illegal, contrary to the law laid down, and as such liable to be set a side in the interest of justice with a consequential direction to refund the recovered amount forthwith by granting the stagnation increment to the petitioner on completion of 12 years of service w.e.f. 12-3-1976 irrespective of his transfer from the date of initial appointment and to pay the arrears by refixing the pay of the petitioner forthwith.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondent No.: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court made the following :

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ORDER:

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Challenging the proceedings issued by the Depot Manager, Ongole Depot, APSRTC dated 9-10-2004, the present writ petition is filed.

As per the proceedings, the Depot Manager, Ongole Depot, APSRTC has cancelled the special grade to the petitioner on the ground that he has not completed 12 years as on 1-5-1989. Therefore, the excess amount paid in pursuance of the special grade shall be recovered from the salary.

Challenging the same, the present writ petition is filed. The learned counsel appearing for the petitioner contended that 12 years service from the date of regularization of an employee has to be taken into consideration and that the services of the petitioner was regularized with effect from 17-3-1976 and if that is taken into consideration, he has completed 12 years of service as on 1-5-1989. Therefore, the order under challenge suffers from serious legal infirmity so as to call for interference by this Court.

The learned Standing Counsel appearing for the respondent contended that 12 years service has to be taken into consideration with effect from the date of joining his service and with effect from date of regularization of service and he fairly conceded that the services of the petitioner has been regularized with effect from 17-3-1976.

Therefore, it cannot be in dispute that an employee worked in the respondent corporation to get stagnation increment on completion of 12 years service from the date of regularization. In this case, the petitioner was already regularized with effect from 17-3-1976. A similar question arises for consideration before this Court in the Writ Petition No 5726 of 2000 and a Division Bench of this Court in Writ Appeal No.1301 of 2000 confirmed the orders of the learned Single Judge wherein the employees completed the period of 12 years of service in the same category irrespective of their transfers are entitled for stagnation of increment and accordingly directed the Corporation to consider the cases of the writ petitioners in the light of the observation made by this court in Writ Petition 5726 of 2000.

Following the said judgment, the respondents are directed to consider the case of the petitioner for granting stagnation increment for 12 years from the date of his regularization of service i.e. 17-3-1976 provided he completed 12 years service in the same category in any region.The impugned proceedings are set-aside accordingly.

The Writ Petition is, accordingly, allowed . In the circumstances, no costs.

KCB, J

25-11-2004

Stp

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Regional Manager, A.P.S.R.T.C. Ongole Region,

Ongole, Prakasam District.

2 The Depot Manager, A.P.S.R.T.C. Ongole Depot, Prakasam District.

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THE HON'BLE MR JUSTICE K.C. BHANU

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